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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/951,635	10/17/1997	MANABU KATO	35.C11250CON	1809
5514	7590	03/07/2006	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			PHAN, JAMES	
			ART UNIT	PAPER NUMBER
			2872	

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

08/951,635

Applicant(s)

KATO, MANABU

Examiner

James Phan

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 61-115 is/are pending in the application.
- 4a) Of the above claim(s) 98-115 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 79-97 is/are allowed.
- 6) ☒ Claim(s) 61-78 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/26/05 has been entered.

Election/Restrictions

Applicant's requests reconsideration and withdrawal of the requirement made in the office action mailed 1/26/05 has been fully considered but the requirement stands for the following reason: because the originally claimed species/invention defined in claims 61-78 having the patentably distinct feature which is not contained in the newly submitted claims 98-115 and because the species defined in the newly submitted claims 98-115 having a patentably distinct feature which is not contained in the originally claimed species, each of the patentably distinct species requires a separate search; thus, a serious burden would impose on the examiner if all claims were searched and examined together.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

Claims 61-78 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The feature, "wherein the curvatures in the main and sub-scanning directions are non-symmetrical with each other with respect to the optical axis", recited in claims 61-63, 70 and 73, lines 6-7, is not clear because the curvature in the main scanning direction lies on a first plane containing the optical axis, and the curvature in the sub-scanning direction lies on a second plane, perpendicular to the first plane, containing the optical axis; how can they are non-symmetrical with each other respect to the optical axis? Thus, the claims are indefinite. Claims 64-69, 71-72 and 74-78 are also rejected in that they are dependent on the indefinite claims and thus inherit the deficiency discussed above.

Allowable Subject Matter

Claims 79-97 are allowed. See reasons for allowance in the office action mailed 1/26/05.

In regarding to claims 61-78, until at such time the claims are definite, and indication of allowable subject matter is deferred.

Response To Applicant's Comment Regarding Claims 79-97

In the comment regarding claims 79-97 applicant states that "Applicant understands from a telephonic conversation with the Examiner that these claims are regarded by the Office as defining a different invention from Takada, et al.'s claims because the subject application's claims recite "wherein each of the two surfaces is non-symmetrical with respect to the optical axis", which pertains to rotational asymmetry, whereas the Takada, et al. claims recite "wherein the curvatures in the main and sub-scanning directions are non-symmetrical with respect to the optical axis", which the

Office believes pertains to plane asymmetry. Applicant respectfully traverses the foregoing." The examiner believes that the applicant has misunderstood the examiner's interpretation of the claimed feature "wherein the curvatures in the main and sub-scanning directions are non-symmetrical with respect to the optical axis" recited in applicant claims 61-78 or Takada, et al. patent claim 1 during the informal telephonic conversation (see "Note" below) because the examiner does not recall if he had used any terms involving "plane symmetry" and/or "rotational asymmetry" in the informal telephonic conversation with the applicant. The patentably distinct features between two groups of claims, rejected claims 61-78 (copied from patent claims 1-13 of Takada et al) and allowed claims 79-97, is that while the rejected claims 61-78 recite the patentably distinct feature "wherein the curvatures in the main and sub-scanning directions are non-symmetrical with respect to the optical axis", the allowed claims 79-97 recite the patentably distinct feature "wherein each of the two surfaces is non-symmetrical with respect to the optical axis". The feature, *the **curvatures in the main and sub-scanning directions** are non-symmetrical with respect to the optical axis*, recited in one of the groups and the feature, *each of the **two surfaces** is non-symmetrical with respect to the optical axis*, recited in the remaining group are not the same because **surfaces** which are non-symmetrical with respect to an optical axis **do not necessarily have** both the **curvature in the main scanning direction** non-symmetrical with respect to the optical axis and the **curvature in the sub-scanning direction** non-symmetrical with respect to the optical axis; i.e. a lens includes a surface having a curvature, in either main scanning or sub-scanning direction, which is non-symmetrical with respect to the

lens optical axis is a lens having the surface non-symmetrical with respect to the optical axis. For example, Embodiment 1 of the present application discloses an imaging lens having two non-symmetrical surfaces with respect to the optical axis (see expressions (c) and (d) on page 27 and Table 1 on page 28. From the Table 1, the radius of curvature of the first surface in the sub-scanning direction is non-symmetrical with respect the optical axis, and the radius of curvature of the second surface in the sub-scanning direction is non-symmetrical with respect the optical axis; however, because the expression (c) is a polynomial of an even degree, the radius of curvature of the first surface in the main scanning direction is symmetrical with respect the optical axis, and the radius of curvature of the second surface in the main scanning direction is also symmetrical with respect the optical axis.

Furthermore, the feature, "wherein the curvatures in the main and sub-scanning directions are non-symmetrical with respect to the optical axis" recited in applicant claims 61-78 or Takada, et al. patent claim 1, is clear, one of ordinary skill in the art would recognizes that the curvature in the main scanning direction on one side of the optical axis is not the same as that on the other side of the optical axis, and the curvature in the sub-scanning direction on one side of the optical axis is not the same as that on the other side of the optical axis are being claimed. Thus, for the reasons discussed above, the "plane symmetry" traversed by the applicant is not relevant to the examiner's interpretation of the cited features.

Note that the telephonic conversation was considered as an "informal telephonic conversation" because the only rejection of claims 61-78 under 35 U.S.C. 112, first

paragraph, made in the Final Office Action was not discussed. As the examiner recalls, the applicant's representative, Mr. Glueck, only proposed to cancel the rejected claims 61-78 and the non-elected claims 98-115 so as to have an interference declared. However, the examiner rejected the applicant's proposal because the allowed claims 79-97 do not contain the feature defined in the patent claim 1 discussed above.

To support his traversal, applicant provides a declaration of Mr. Duncan T. More. However, as explained above, the "plane symmetry" traversed by the applicant is not relevant to the examiner's interpretation and thus, the declaration of Mr. Duncan T. More has not been given much weight.


Conclusion

The request for interference will not be granted because, as explained above, the allowed claims 79-97 do not contain the patentably distinct feature defined in patent claims of Takada et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Phan whose telephone number is (571) 272-2317. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James Phan
Primary Examiner
Art Unit 2872

JP
3/3/06